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C O N F I D E N T I A L STATE 061281

PASS ASSISTANT SECRETARY ENDERS

FOLLOWING SENT ACTION SECSTATE FROM CARACAS MAR 17

QUOTE C O N F I D E N T I A L CARACAS 2963

EO 11652: GDS

TAGS: ENRG EINV VE

SUBJ: OIL NATIONALIZATION BILL - THE GUARANTEE FUND

REF: CARACAS 2847

BEGIN SUMMARY. ONE OF THE CLAUSES IN THE OIL NATIONALIZATION BILL THAT CONCESSIONAIRES VIEW AS ONEROUS IS THE REQUIREMENT THAT THEY MUST DEPOSIT TEN PERCENT OF THE VALUE OF THEIR GROSS INVESTMENT INTO A GUARANTEE FUND SHORTLY AFTER THE BILL BECOMES LAW. THE FUND WOULD INSURE THAT ALL DEBTS OWED BY THE CONCESSIONAIRES TO THE GOV WOULD BE COVERED. THIS CLAUSE, IF RETAINED IN THE FINAL BILL, WOULD OBLIGATE THE OIL COMPANIES TO MAKE CASH PAYMENTS TOTALING OVER \$400 MILLION PRIOR TO RECEIVING ANY COMPENSATION FOR THEIR NATIONALIZED INVESTMENTS. THERE ARE, HOWEVER, INDICATIONS THAT THE GUARANTEE FUND CLAUSE MAY BE ELIMINATED FROM THE BILL DURING THE CONGRESSIONAL REVIEW. END SUMMARY.

1. ARTICLE 19 OF THE OIL NATIONALIZATION BILL, WHICH IS UNCHANGED FROM ARTICLE 17 OF THE REVERSION COMMISSION DRAFT, AMENDS THE 1971 "LAW ON PROPERTY OR ASSETS SUBJECT TO REVERSION IN THE
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HYDROCARBON CONCESSIONS" AS IT PERTAINS TO THE GUARANTEE FUND.

UNDER THE MODIFICATION OIL CONCESSIONAIRES WILL NOW BE REQUIRED, WITHIN THIRTY DAYS AFTER ENACTMENT OF THE NATIONALIZATION LAW, TO DEPOSIT INTO THE GUARANTEE FUND IN ONE PAYMENT THE AMOUNT THAT WILL BRING EACH CONCESSIONAIRES TOTAL UP TO AN EQUIVALENT OF TEN PERCENT OF ITS ACCRUED GROSS INVESTMENT ACCEPTED FOR INCOME TAX PURPOSES. THE GUARANTEE FUND, UNDER ARTICLE 17 OF THE BILL NOW IN CONGRESS, WOULD BE DRAWN ON BY THE GOV TO COVER ANY DEBTS OWED BY THE CONCESSIONAIRES WHICH FOR ANY REASON MIGHT NOT BE DEDUCTED FROM THE COMPENSATION THAT WILL BE ESTABLISHED FOR THE NATIONALIZED ASSETS.

2. THE EMBASSY'S MOST RECENT DATA ON OIL CONCESSIONAIRES' INVESTMENT IS CONTAINED IN GOV MINISTRY OF MINES AND HYDROCARBONS PUBLICATION "PETROLEUM AND OTHER STATISTICAL DATA - 1973" PUBLISHED IN OCTOBER 1974. ACCORDING TO THIS SOURCE, GROSS INVESTMENT IN PROPERTY, PLANT AND EQUIPMENT TOTALED BS. 20.8 BILLION (\$4.8 BILLION) AS OF THE END OF 1973 TEN PERCENT OF THIS FIGURE WOULD BE CLOSE TO THE ROUGH ESTIMATE OF BS. 2 BILLION (\$465 MILLION) NOW BEING HEARD AROUND CARACAS, AND MENTIONED IN A CARACAS DAILY MARCH 16, THAT OIL COMPANIES WOULD HAVE TO ANTE UP FOR THE FUND. ACCORDING TO THE 1973 MINES MINISTRY ANNUAL REPORT, ONLY APPROXIMATELY BS. 319 MILLION (\$74 MILLION) HAD ACTUALLY BEEN PAID BY CONCESSIONAIRES INTO THE GUARANTEE FUND BY THE END OF 1973.

3. ABOVE TOTALS WOULD HAVE TO BE ADJUSTED TO REFLECT 1974 DATA, BUT IT APPEARS THAT OIL COMPANIES HAVE TO DATE PAID INTO THE FUND ONLY A SMALL PART OF WHAT THEY MIGHT HAVE TO IF THE NATIONALIZATION BILL IS NOT AMENDED TO EXCLUDE THIS REQUIREMENT.

4. CREOLE, SHELL AND MENE GRANDE (GULF) ACCOUNTED FOR 79 PERCENT OF DEPOSITS INTO THE FUND THROUGH 1973, AND IT WILL BE THESE THREE COMPANIES THAT WILL HAVE TO MAKE THE BULK OF THE NEW PAYMENT. AS REPORTED IN THE REFTEL, CREOLE PETROLEUM HAS ALREADY CALCULATED THAT ITS DEPOSIT WILL AMOUNT TO ABOUT \$135 MILLION. THE EMBASSY HAD NOT YET CHECKED WITH SHELL OR MENE GRANDE TO DETERMINE THEIR OBLIGATION TO THE FUND.

5. THIS POTENTIAL FINANCIAL OBLIGATION OF THE OIL CONCESSIONAIRES COULD BE ACADEMIC. ACCORDING TO ONE WELL-INFORMED PRIVATE VENEZUELAN SOURCE WHO HAS EXCELLENT CONTACTS IN THE GOV, IT WAS CONFIDENTIAL

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ORIGINALLY INTENDED BY THE ADMINISTRATION OFFICIALS WHO REVISED THE COMMISSION DRAFT BILL TO ELIMINATE THE GUARANTEE FUND REQUIREMENT. THE REASON THEY GAVE THE SOURCE FOR NOT DOING SO WAS LACK OF TIME DURING THE REVISION PROCESS TO CONCENTRATE ON THIS ASPECT OF THE BILL. THE EMBASSY SOURCE BELIEVES THERE IS A STRONG POSSIBILITY THAT THE GUARANTEE FUND REQUIREMENT WILL BE TAKEN OUT DURING THE CONGRESSIONAL REVIEW OF THE BILL. THE MARCH 16 NEWSPAPER ARTICLE MENTIONED IN PARA TWO ALSO SPECULATES THAT THE BILL COULD

BE MODIFIED TO ELIMINATE THE GUARANTEE FUND REQUIREMENT. ONE
REASON IN FAVOR OF ELIMINATING THE FUND, IS THAT SUCH A LARGE
CASH INFLOW COULD HAVE A "NEGATIVE" EFFECT AT THIS MOMENT,
ACCORDING TO MONETARY AUTHORITIES CONSULTED BY THE NEWSPAPER. BONDS
WHICH MIGHT BE UTILIZED FOR THE COMPENSATION PAYMENTS TO THE OIL
CONCESSIONAIRES WOULD SERVE THE SAME PURPOSE AS THE FUND, IN THE
OPINION OF SOURCES CONTACTED BY THE NEWSPAPER.
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